

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Robert G. Taub, Vice Chairman;
Mark Acton;
Tony L. Hammond; and
Nanci E. Langley

Market Dominant Product Prices
First-Class and Standard Mail
Discover Financial Services

Docket No. MC2011-19

Market Dominant Product Prices
Discover Financial Services (MC2011-19)
Negotiated Service Agreement

Docket No. R2011-3

NOTICE AND ORDER CONCERNING CONTRACT AMENDMENT TO DISCOVER
FINANCIAL SERVICES NEGOTIATED SERVICE AGREEMENT

(Issued March 14, 2013)

I. INTRODUCTION

On January 14, 2011, the Postal Service filed a request pursuant to 39 U.S.C. 3622 and 3642, as well as 39 CFR 3010 and 3020, *et seq.*, to add a Discover Financial Services (DFS) Negotiated Service Agreement (NSA) to the market dominant product list.¹ After a comment period, the Commission approved the Request on March 15,

¹ Notice of the United States Postal Service of Filing Contract and Supporting Data and Request to Add Discover Financial Services Negotiated Service Agreement to the Market-Dominant Product List, January 14, 2011 (Request).

2011 and added the product to the market dominant product list.² On March 8, 2013, the Postal Service filed an amendment to the DFS NSA with the Commission.³

Contract Amendment. The proposed Amendment seeks to modify how Discover's First-Class Mail revenue is calculated under the contract. *Id.* at 1. Discover has decided to utilize Priority Mail in lieu of a small amount of its First-Class Mail volume. *Id.* The Amendment is designed to adjust the threshold for qualifying for discounts to account for the Priority Mail volume. *Id.* The Amendment proposes that First-Class Mail revenue, for the purposes of achieving the revenue threshold, include "a sum that represents the revenue value of the DFS Priority Mail piece volume, such sum to be calculated by multiplying DFS's priority Mail piece volume by DFS's average DFS Eligible First-Class Mail postage per piece for the current contract year." *Id.* Attachment.

The Postal Service states that the Amendment does not alter the structure or original intent of the agreement and benefits both parties because "Discover will not be penalized for the upgrade, and the Postal Service will receive a higher contribution per piece from the Discover First-Class mail volume that Discover upgrades...." Amendment at 2. The Postal Service asserts that the Amendment meets the statutory requirements of improving the net financial position of the Postal Service, while not causing any unreasonable harm to the marketplace. *Id.*; see also 39 U.S.C. 3622(c)(10).

II. NOTICE OF FILINGS

The Commission reopens Docket Nos. MC2011-19 and R2011-3 to consider the Amendment.

² Order No. 694, Order Adding Discover Financial Services 1 Negotiated Service Agreement to the Market Dominant Product List, March 15, 2011.

³ Letter from Brandy A. Osimokun, Attorney, United States Postal Service to Shoshana M. Grove, Secretary, Postal Regulatory Commission, Re: Docket No[s]. R2011-3/MC2011-19, March 8, 2013 (Amendment).

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3622, 3632, 3633, or 3642 and 39 CFR parts 3010 and 3020. Comments are due no later than March 27, 2013. The Commission appoints Malin G. Moench to serve as Public Representative in these dockets.

III. ORDERING PARAGRAPHS

It is ordered:

1. Pursuant to 39 U.S.C. 505, Malin G. Moench is appointed to serve as an officer of the Commission to represent the interests of the general public in these proceedings (Public Representative).
2. Comments by interested persons in these proceedings are due no later than March 27, 2013.
3. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Shoshana M. Grove
Secretary